

PCT 10/563608

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference 02/2PCT	FOR FURTHER ACTION	See item 4 below
International application No. PCT/DE2004/001486	International filing date (day/month/year) 08 July 2004 (08.07.2004)	Priority date (day/month/year) 08 July 2003 (08.07.2003)
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237		
Applicant OBERSCHELP, Axel		

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).
 2. This REPORT consists of a total of 7 sheets, including this cover sheet.
- In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

<input checked="" type="checkbox"/> Box No. I	Basis of the report
<input checked="" type="checkbox"/> Box No. II	Priority
<input type="checkbox"/> Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/> Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/> Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/> Box No. VI	Certain documents cited
<input type="checkbox"/> Box No. VII	Certain defects in the international application
<input type="checkbox"/> Box No. VIII	Certain observations on the international application

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No. +41 22 740 14 35	Date of issuance of this report 12 June 2006 (12.06.2006) Authorized officer Agnes Wittmann-Regis Telephone No. +41 22 338 89 70
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PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

PCT

Translation

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Applicant's or agent's file reference 02/2PCT		Date of mailing <i>(day/month/year)</i>
International application No. PCT/DE2004/001486		International filing date <i>(day/month/year)</i> 08.07.2004
International Patent Classification (IPC) or both national classification and IPC		Priority date <i>(day/month/year)</i> 08.07.2003
Applicant OBERSCHHELP, Axel		

1. This opinion contains indications relating to the following items:

<input checked="" type="checkbox"/>	Box No. I	Basis of the opinion
<input checked="" type="checkbox"/>	Box No. II	Priority
<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/>	Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/>	Box No. VI	Certain documents cited
<input type="checkbox"/>	Box No. VII	Certain defects in the international application
<input type="checkbox"/>	Box No. VIII	Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/EP	Authorized officer
Facsimile No.	Telephone No.

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

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Box No. I

Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ This opinion has been established on the basis of a translation from the original language into the following language
_____, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material
☐ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material
☐ in written format
☐ in computer readable form
 - c. time of filing/furnishing
☐ contained in the international application as filed.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

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Box No. II

Priority

1. ☒ The following document has not yet been furnished:

☒ copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).

☐ translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date in the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

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Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement			
Novelty (N)	Claims	2, 3	YES
	Claims	1, 4, 5	NO
Inventive step (IS)	Claims	2, 3	YES
	Claims	1, 4, 5	NO
Industrial applicability (IA)	Claims	1-5	YES
	Claims		NO
2. Citations and explanations:			
<p>1 The present opinion makes reference to the following documents:</p> <p>D1: GB 556 045 A (FREDERICK WILLIAM PETER TAYLOR) 17 September 1943 (1943-09-17)</p> <p>D2: WO 91/02041 A (KAKUI KABUSHIKI KAISHA) 21 February 1991 (1991-02-21)</p> <p>D3: PATENT ABSTRACTS OF JAPAN vol. 0081, no. 87 (C-240), 28 August 1984 (1984-08-28) & JP 59 082992 A (KOGYO GIJUTSUIN; others: 0J), 14 May 1984 (1984-05-14)</p> <p>D4: US 2003/119407 A1 (ALMSTROM JEANETTE ET AL) 26 June 2003 (2003-06-26)</p>			
<p>2 INDEPENDENT CLAIM 1</p> <p>2.1 The phrase "of the main constituents" in claim 1 is vague and unclear and leaves the reader uncertain as to the meaning of the technical feature in question. As a result, the subject matter of said claim is not clearly defined (PCT Article 6) (PCT Guidelines 5.34).</p> <p>Applicant is also advised that expressions such as</p>			

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Box No. V

Reasoned statement under Rule 43bis1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

"such as" or "such as for example" must be carefully examined as to whether they might not create lack of certainty. Expressions of this kind do not restrict the scope of protection of the claim; that is to say, any feature preceded by such an expression must be considered entirely optional (PCT Guidelines 5.40).

- 2.2 The present application does not meet the requirements of PCT Article 33(1) because the subject matter of claim 1 is not novel within the meaning of PCT Article 33(2).

Document D1 discloses a mixed fibre batt for producing nonwoven (page 1 lines 28-33), the batt consisting of the main constituents cellulose fibres and kapok fibres (page 1 lines 50-54, page 2 lines 4-10: kapok + cotton, i.e. cellulose fibres, = 60 + 15 = 75% by weight).

The same is true of the documents D2 (see the abstract; "jute fibres" consist of cellulose fibres) and D3 (see Patent Abstract of Japan; kapok fibres + cellulose fibres = 65-80% by weight).

The subject matter of claim 1 is therefore not novel (PCT Article 33(2)).

3 DEPENDENT CLAIMS 4, 5

Claims 4 and 5 do not contain any features which, in combination with the features of any claim to which

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PCT/DE2004/001486

Box No. V Reasoned statement under Rule 43bis1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

they refer, meet the PCT requirements for novelty
and inventive step:

- a) claim 4: see D1 page 1 lines 28-33;
- b) claim 5: see D2, especially the corresponding
WPI/Derwent Abstract, where polyester fibres are
disclosed.

4 DEPENDENT CLAIMS 2, 3

These dependent claims disclose a combination of
features which is neither known from nor suggested
by the documents D1, D2, D3. The subject matter of
claims 2 and 3 therefore appears to be novel (PCT
Article 33(2)) and inventive (PCT Article 33(3)).

However, D2 and D3 are only brief abstracts of the
Japanese documents WO 91/02041 and JP 59082992. For
this reason, the filing of a translation of D2 and
D3 would be particularly useful, since the use of
chemically produced cellulose fibres such as lyocell
fibres could be disclosed therein.

5 Miscellaneous

Industrial applicability should be obvious (PCT
Article 33(4)).

Contrary to PCT Rule 5.1(a)(ii), the description
does not cite D1-D4 or indicate the relevant prior
art disclosed therein.